WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

MARK NAHVI, *Applicant*

vs.

LYFT, INC.;
permissibly self-insured, administered by GALLAGHER BASSETT, *Defendants*

Adjudication Number: ADJ12356394
Van Nuys District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

Defendant, Lyft, Inc., filed a Petition for Reconsideration, or in the alternative, Removal of the Findings, Award and Orders issued by the workers' compensation administrative law judge (WCJ) on July 20, 2026. Therein, the WCJ found that:

1. The court finds that Lyft willfully delayed the above captioned case.
2. The affidavits dated January 6, 2024 and April 23, 2024 are found to be late.
3. The affidavits dated January 6, 2024 and April 23, 2024 are found to be inadequate.
4. Reasonable attorney fees related to the delay caused by Lyft, Inc. is $64,735.00.
5. All other issues are reserved and deferred.

Based on these findings, the WCJ ordered the payment of $64,735.00 as reasonable attorney fees; ordered that Lyft "produce any records requested that have not yet been produced with an affidavit of custodian of records that says all of the records associated with the Mr. Nahvi's file have been produced;" and ordered that Lyft is sanctioned $2,000.00.

Defendant contends that the WCJ erred in ordering it to pay attorney fees and sanctions arguing that the requested records have been produced, that there has been no bad faith even with the delayed production of records, and that Lyft has endeavored to comply with all requests as thoroughly as possible since receipt of the November 8, 2023 letter outlining the records requested.

We received an Answer from applicant. The WCJ issued a Report and Recommendation of Workers' Compensation Administrative Law Judge on Petition for Reconsideration/Removal (Report) recommending that the petition be denied.

We have considered the Petition, the Answer, and the contents of the Report, and the record in this matter. Based upon our review and the reasons stated below, we will deny reconsideration.

I.

Petitions for reconsideration filed on or after July 14, 2026 are subject to Labor Code[1] section 5909, which states that:

> (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
>
> (b)
>
> (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
>
> (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase "Sent to Recon" and under Additional Information is the phrase "The case is sent to the Recon board."

Here, according to Events, the case was transmitted to the Appeals Board on August 24, 2026 and 60 days from the date of transmission is October 23, 2026. This decision is issued by or on October 23, 2026, so that we have timely acted on the Petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report shall be notice of transmission.

[1] All further statutory references are to the Labor Code, unless otherwise noted.

Here, according to the proof of service for the Report, the Report was served on July 27, 2026, and the case was transmitted to the Appeals Board on July 27, 2026. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on July 27, 2026.

II.

A petition for reconsideration may properly be taken only from a "final" order, decision, or award. (Lab. Code, §§ 5900(a), 5902, 5903.) A "final" order has been defined as one that either "determines any substantive right or liability of those involved in the case" *(Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers' Comp. Appeals Bd.* (*Pointer*) (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd.* (*Kramer*) (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]) or determines a "threshold" issue that is fundamental to the claim for benefits. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) Interlocutory procedural or evidentiary decisions, entered in the midst of the workers' compensation proceedings, are not considered "final" orders. (*Id*. at p. 1075 ["interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not 'final' "]; *Rymer, supra*, at p. 1180 ["[t]he term ['final'] does not include intermediate procedural orders or discovery orders"]; *Kramer, supra*, at p. 45 ["[t]he term ['final'] does not include intermediate procedural orders"].) Such interlocutory decisions include, but are not limited to, pre-trial orders regarding evidence, discovery, trial setting, venue, or similar issues.

A decision issued by the Appeals Board may address a hybrid of both final and interlocutory issues. If a party challenges a hybrid decision, the petition seeking relief is treated as a petition for reconsideration because the decision resolves a final issue. In this case, the order that defendant pay sanctions and attorney fees obviously affects liability. Accordingly, the WCJ's decision is a final order subject to reconsideration rather than removal.

III.

The WCJ stated the following in the Opinion on Decision:

> BACKGROUND
>
> Applicant, Mark Nahvi, born [], while allegedly employed on March 10, 2018, as a Lyft driver, Occupational Group No. 250, at Southern California, by Lyft, Inc., claims to have sustained injury arising out of and in the course of employment to his head, brain, hand, legs, nose, dysphagia, sleep, ears (hearing loss and tinnitus), psyche, cognition, memory, vision, neck, back, balance, face, speech, and gait. (Minutes of Hearing and Summary of Evidence dated November 18, 2025, hereinafter MOH, at 2:4.)
>
> At the time of injury, the alleged employer was permissibly self-insured and administrated by Gallagher Bassett. (MOH at 2:8.)
>
> ISSUE[S]
>
> 1. Is Applicant's Attorney entitled to Attorney fees?
>
> 2. Should the Applicant's Petition for Sanctions, Monetary Sanctions, Attorney's Fees and Costs, dated February 1, 2024, be granted, and if so, in what amount and under what terms?
>
> 3. The issues for trial held April 24, 2024, including issue sanctions, monetary sanctions, attorney's fees, and costs.
>
> 4. Lyft's continued violation of Court Orders and stipulation including WCJ Sommer's, February 7, 2024, Order Compelling Production of Documents and Discovery Master Judge Kahn's Findings of March 28, 2025.
>
> DISCUSSION
>
> LYFT ACTED WITH INTENT TO DELAY DISCOVERY AND USURPED THE DUTIES OF THE COURT
>
> Based on the fact the subpoena issued on November 17, 2021, and the affidavits were dated January 6, 2024, and April 23, 2024. Discovery Master Mark L. Kahn found that the delay was unreasonable based on the time frames. The undersigned WCJ agrees. The Discovery Master found the affidavits were not adequate. The undersigned WCJ agrees.
>
> The undersigned WCJ further finds Lyft acted with malice. If the responding party objects to a demand for inspection, copying, testing, or sampling of an item or category of item, the response must identify with particularity any document, tangible thing, land, or electronically stored information included in any

category of item in the demand to which an objection is being made and set forth clearly the extent of, and specific ground for the objection (California Code of Civil Procedure §2031.240(b)). If an objection is based on a claim of privilege or a claim that the information sought is protected work product, the response shall provide sufficient factual information for other parties to evaluate the merits of that claim, including, if necessary, a privilege log. (Cal. Civ. Proc. Code § 2031.240(c)(1)). The effect of failure to serve a timely response to a subpoena is waiver of any objection to the demand, including one based on privilege. The custodian of records, Yvonne Tsai, testified her role "includes reviewing requests, determining relevance, and producing documents deemed appropriate." (Minutes of Hearing (Further) and Summary of Evidence dated January 7, 2026, hereinafter "MOH-JAN", at 2:17.) Ms. Tsai does not have a license or formal training as a paralegal, her only training was provided by Lyft and its in-house counsel. Lyft gave Ms. Tsai the title of paralegal empowering her to believe she had legal authority to determine what was relevant and only produce the documents requested. It is the Undersigned WCJ's job to determine if the documents are relevant, not Lyft's job.

In review of the three minutes of hearing and summary of evidence the undersigned WCJ picked out the following incidences where Lyft intentionally overstepped:

Statement/Comment	Date of Minutes	Location
"The Witness did not produce airport rules and surge pricing because it is always changing and available on the web or driver app." / only the current airport rules are on the web or driver app, the issue is the amount of control Lyft had over the drivers in 2018.	11-18-2025	7:19–20
"The Witness normally does not provide ZEN desk tickets." / They were asked for, give an objection, don't just withhold.	11-18-2025	7:22
"The Witness said it is Lyft's policy not to produce rider information" (Lyft considers rider name, pick-up/drop-off "confidential personal information") / Privilege not timely asserted.	11-18-2025	7:23–24
"[W]hen the request is for employee records, they are not produced because Lyft does not have any employees. The term is driver." / No timely affidavit stating there are no employee records.	11-18-2025	8:11–12

"The Witness said she did not respond to the subpoena in this case because there is outside counsel that would do the response." / Outside counsel is not the custodian of records and only has what Lyft provides, any inability of outside counsel to properly respond is traced back to Lyft.	11-18-2025	8:14–15
"The Witness said she did not serve all the documents under her custody and control, only those listed in the addendum to the affidavit of the custodian." / See definition of privilege log above.	11-18-2025	9:7–8
"[T]his is a long drawn-out case, and we do not normally consider producing Go Guides." / Go guides are necessary to determine control over a driver and not normally produced is not a valid objection or privilege, this is how Lyft trained its “paralegal”	11-18-2025	9:13–15

Statement/Comment	**Date of Minutes**	**Location**
"The Witness said she produced all documents associated with the subpoena, excluding attorney-client privilege." / see definition of privilege log and now privilege has been waived and all documents must be produced.	11-18-2025	9:16–17
"Lyft typically does not produce lists of non-existent documents." / Lyft must timely state they have no documents in the category or state they have produced all documents in the category.	1-7-2026	3:11–12
Lyft "does not maintain traditional employee files, timecards, payroll, or benefits records" because it classifies drivers as independent contractors. / Lyft needed to timely object to the category of documents demanded.	1-7-2026	2:23–24

"Specific items like Go Guides..., power bonuses/surge payments..., detailed airport trips, or mass communications were not routinely produced without clarification or relevance determination, as they are not driver-specific or may not exist in the requested form." / There was not an objection, request for a protective order or request for clarification	1-7-2026	3:21–23
"***Lyft has produced everything believed relevant and available for Mr. Nahvi***..., excluding non-existent items, privileged/safety-sensitive information (e.g., rider details), or those needing clarification." / It is not Lyft's place to make the determination of relevance or privilege and there is no safety-sensitive privilege	1-7-2026	4:7–11

Statements related to relevance, again, for the undersigned WCJ to determine, not Lyft.

Statement	**Date of Minutes**	**Location**
Ms. Tsai's role "includes reviewing requests, ***determining relevance***, and producing documents deemed appropriate."	1-7-2026	2:17–18
"[Lyft] does not withhold documents intentionally but only produces what exists, ***is relevant***, and does not require further clarification."	1-7-2026	3:8–9
"...were not routinely produced without clarification or ***relevance determination***..." (Go Guides / power bonuses-surge payments / detailed airport trips / mass communications).	1-7-2026	3:21–23
"The Witness said she does not understand what is the Applicant's perception of, 'relevance.'" / This is an admission that the custodian of records understands the other party may find something relevant that she does not.	11-18-2025	9:14–15

The actions Lyft show its staff has been trained to slow and frustrate discovery efforts. Lyft has willfully delayed this case.

SANCTIONS

Lyft has willfully delayed the case, they held outside counsel responsible for production of documents but only gave her the documents they thought were relevant, plus all the items mentioned in the chart above. A reasonable sanction is $2,000.00, considering the extent of delay and the court resources needed to get this case moving toward an AOE/COE trial.

ATTORNEY FEES AS AND FOR COSTS

Applicant's attorney is doing an above average job on this case. He is getting care for his client on this denied case. This is a combination of legal skills and social acumen that requires good will in the community to get specialists in areas where normally nobody is willing to work on a lien. The undersigned WCJ is impressed with the skills of Applicant's Attorney and agrees with the rates requested in the amended petition for attorney's fees dated May 15, 2026. The hours worked stated in the amended petition for attorney's fees appear reasonable. A reasonable fee associated with delayed discovery in this case is $64,735.00.

(Opinion on Decision, at pp. 1-5.)

The WCJ stated the following in the Report

INTRODUCTION:

On August 14, 2026, Defendant filed a timely verified petition for reconsideration or in the alternative, removal of a findings, award and order regarding sanctions and attorney fees. It is the Defendant's contention that the records requested have been produced and that there has been no bad faith. The delay in production of records requested in 2023 is not indicative of bad faith.

STATEMENT OF FACTS:

On July 11, 2019, an application for adjudication was filed describing the injury as Applicant being attacked by a passenger and applicant falling unconscious with serious injuries. The body parts injured included the brain.

On November 17, 2021, Applicant's attorney issued a subpoena for the production of business records. Paragraph 2 of the subpoena states "The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1591." On April 15, 2022, Applicant filed a petition to compel compliance with subpoena. Thereafter, multiple status

conferences were attended by the parties. On the minutes of an April 19, 2022 status conference, the comments reflect that Defendant will produce any records in possession of Lyft and the matter was continued to a mandatory settlement conference. On December 5, 2022, Defendant filed a copy of the records produced with a cover letter dated September 16, 2022. September 16, 2022, is five months after Defendant agreed to produce. An affidavit of the custodian of records did not accompany the production of records. At the September 22, 2022, mandatory settlement conference, the matter was set on December 6, 2022 for trial before WCJ Carbone. On December 6, 2022, the parties appeared before Presiding Judge Sharon Velzy. The Defendant stipulated to comply with the subpoena dated November 17, 2021, identify the custodian of records and provide a privilege log for any claim of privilege. Applicant agreed to provide defendant with signed releases. Judge Velzy made the agreement an order of the court.

On February 24, 2023, Defendant filed a petition to dismiss the case for failure to comply with the order dated December 6, 2022. Applicant filed signed releases dated March 8, 2023. On August 9, 2023, Applicant issued a notice of deposition of the person most qualified and demand for documents. On October 16, 2023, the parties appeared for a priority conference and the matter was set for a discovery trial on November 14, 2023 before WCJ Sommer. On February 7, 2024, WCJ Sommer issued an order noting that the order was done on the third hearing on the matter. WCJ Sommer ordered production of documents and enumerated the classes of documents to be produced, a declaration/verification signed by the custodian of records and that the person most knowledgeable must be made available 30 days after production of the documents. The parties again appeared for trial before WCJ Sommer on April 24, 2024 and agreed to submit on the existing record.

On August 6, 2024, WCJ Sommer issued a Finding of Fact and Order. WCJ Sommer referenced an August 23, 2023 email to defense attorney memorializing a telephone call indicating that Lyft will not produce a PMK or show up at tomorrow's duly noticed PMK deposition despite Defendant never objecting to the deposition. WCJ Sommer found no indication that a privilege log was ever provided, as ordered by WCPJ Velzy, that Lyft is not absolved from appearing at the PMK deposition because it complied with order to produce documents. WCJ Sommer issued sanctions in the amount of $2,500.00 for violation of CCP § 2023.030 and pursuant to Labor Code § 5813 in the amount of $1,500.00. WCJ Sommer further awarded Applicant attorney fees in the amount of $20,790.00.

Defendant filed a timely petition for removal. WCJ Sommer was no longer available and unlikely to become available. WCPJ Velzy had issued orders which were part of the subject matter of the case and WCPJ Velzy's supervisor John Durr vacated the Findings, Award and Order issued by WCJ Sommer and the matter was reassigned to the undersigned WCJ. On December 2, 2024, the parties appeared for trial before the undersigned WCJ and agreed to utilize

retired Judge Kahn as a discovery master and the matter was set for further proceedings in the form of status conferences before the undersigned WCJ to monitor progress on discovery.

A transcript of the proceeding on February 28, 2025 was filed with the court on June 19, 2025. (Exhibit 12.) The discovery master's report and recommendation was admitted as Exhibit 11.

The first day of the Sanctions/Discovery trial was November 18, 2025 and the last trial date was June 10, 2026. A full three days of testimony was taken from the custodian of records, Yvonne Tsai. Both Erin Walker from Laughlin Falbo and Marina Anderson, in-house counsel for Lyft, were present. Ms. Anderson did not participate in questioning the witness. Applicant also had two Attorneys, Chris Asvar, who did the questioning and Jonathan Perez, both from Asvar Law.

On July 20, 2026, the undersigned WCJ issued a Finding that Lyft willfully delayed the above-captioned case, ordered Defendant to pay Applicant's attorney $64,735.00, ordered that further records be produced with an affidavit of the custodian of records, and imposed sanctions in the amount of $2,000.00. It is from these findings and orders that Defendant seeks relief.

DISCUSSION:

THE CORRECT STANDARD TO APPLY IS THE RECONSIDERATION STANDARD

If a decision includes resolution of a "threshold" issue, then it is a "final" decision, whether or not all issues are resolved or there is an ultimate decision on the right to benefits. (*Aldi* v. *Carr, McClellan, Ingersoll, Thompson & Horn* (2006) 71 Cal.Comp.Cases 783, 784, fn. 2 (Appeals Board en banc).) In this case, the Judge ordered discovery, costs and sanctions. Although the discovery issue is not final and the costs can be reversed in the final decision and credit applied, the sanctions are final. This is considered a hybrid decision. Failure to timely petition for reconsideration of a final decision bars later challenge to the propriety of the decision before the WCAB or court of appeal. (Lab. Code § 5904.)

A decision issued by the Appeals Board may address a hybrid of both threshold and interlocutory issues. If a party challenges a hybrid decision, the petition seeking relief is treated as a petition for reconsideration because the decision resolves a threshold issue….

LYFT WILLFULLY WITHHELD DOCUMENTS

The defense called Yvonne Tsai as a witness and on direct testimony the Witness testified she is a paralegal with Lyft. The Witness is assigned to respond to Workers' Compensation Subpoenas. (Minutes of Hearing and Summary of Evidence dated November 18, 2025, hereinafter MOH, at 7:10.) On cross-examination the Witness admitted that she did not have a paralegal certificate and that her first experience handling subpoenas began when she started working for Lyft. (MOH at 8:6.) From that testimony, the undersigned WCJ surmised that all of the Witness's training was provided by Lyft and the procedures used by the Witness are how Lyft wants subpoenas handled.

On cross examination, the Witness testified "she did not respond to the subpoena in this case because there is outside counsel that would do the response. The Witness testified she only produces an affidavit when asked for one." (MOH at 8:14.) This is a reflection on Lyft's training program; Lyft made a decision to train its "paralegals" not to produce an affidavit. This decision is a premeditated act to be non-responsive. It is the undersigned WCJ's belief that subpoenas from almost every state require an affidavit, and in California, this requirement is set forth in paragraph 2 of the standard subpoena form.

The Witness was trained that "Discovery is ongoing; it keeps on coming. It is a negotiation." This training and mindset are a manifestation of an intent to delay discovery and the case.

THE HOURLY RATE REQUESTED BY APPLICANT'S ATTORNEY IS REASONABLE

To get to this point in the litigation, Asvar Law showed superior skill in the areas of Workers' Compensation and Civil Procedure. Not only did they have the skills to manage this case to this point, but they had to use their goodwill in the community to get the Applicant treated on a lien basis until another agency could take over. Asvar Law is taking on a risk of damaging its goodwill in the community if it does not prevail. In Van Nuys, there are many law firms that ask for $600.00 an hour that would never be able to handle a case of this complexity. Asvar Law requested $550.00 an hour for the services of Mr. Asvar and Mr. Perez. It is the undersigned WCJ's opinion that although the rate requested is on the high side, in this case it is a reasonable rate.

RECOMMENDATION:

The undersigned WCJ respectfully recommends that Defendant's Petition for Reconsideration/Removal dated August 14, 2026 be denied.

(Report, at pp. 1-6.)

IV.

The Appeals Board is authorized to impose sanctions, costs and attorney's fees under section 5813, which states, in pertinent part, that:

> (a) The workers' compensation referee or appeals board may order a party, the party's attorney, or both, to pay any reasonable expenses, including attorney's fees and costs, incurred by another party as a result of bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay. In addition, a workers' compensation referee or the appeals board, in its sole discretion, may order additional sanctions not to exceed two thousand five hundred dollars ($2,500) to be transmitted to the General Fund.
>
> (b) The determination of sanctions shall be made after written application by the party seeking sanctions or upon the appeal board's own motion.
>
> (Lab. Code, § 5813(a) & (b).)

Sanctions under section 5813 are designed to punish litigation abuses and to provide the court with a tool for curbing improper legal tactics and controlling their calendars. (*Duncan v. Workers' Comp. Appeals Bd.* (2008) 166 Cal.App.4th 294, 302.) Accordingly, sanctions are similar to penalties under section 5814, in that they are designed to have both remedial and penal aspects. (See *Ramirez v. Drive Financial Services* (2008) 73 Cal.Comp.Cases 1324 (Appeals Board En Banc).)

Orders for sanctions, costs and attorney's fees can be based upon the WCJ's own motion or on a petition filed pursuant to WCAB Rule 10510. (Cal. Code Regs., tit. 8, §§ 10421(a), 10510.) Before issuing such an order, "the alleged offending party or attorney must be given notice and an opportunity to be heard." (Cal. Code Regs., tit. 8, §§ 10421(a).) WCAB Rule 10421, subdivision (b), authorizes sanctions for a party who has committed "[b]ad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay including actions or tactics that result from willful failure to comply with a statutory or regulatory obligation, that result from a willful intent to disrupt or delay the proceedings of the Workers' Compensation Appeals Board, or that are done for an improper motive or are indisputably without merit." (Cal. Code Regs., tit. 8, § 10421(b).) Subdivision (b) provides a comprehensive but non-exclusive list of actions that could be subject to sanctions. As applicable here, violations subject to sanctions, pursuant to WCAB Rule 10421(b), include:

(3) Failure to timely serve documents (including but not limited to medical reports and medical-legal reports) as required by the rules of the Workers' Compensation Appeals Board, or the Administrative Director, where the documents are within the party's possession or control, unless that failure resulted from mistake, inadvertence or excusable neglect.

(4) Failing to comply with the Workers' Compensation Appeals Board's Rules of Practice and Procedure, with the regulations of the Administrative Director, or with any award or order of the Workers' Compensation Appeals Board, including an order of discovery, which is not pending on reconsideration, removal or appellate review and which is not subject to a timely petition for reconsideration, removal or appellate review, unless that failure results from mistake, inadvertence, surprise or excusable neglect.

(5) Executing a declaration or verification to any petition, pleading or other document filed with the Workers' Compensation Appeals Board:

(A) That:

(i) Contains false or substantially false statements of fact;

(ii) Contains statements of fact that are substantially misleading;

(iii) Contains substantial misrepresentations of fact;

(iv) Contains statements of fact that are made without any reasonable basis or with reckless indifference as to their truth or falsity;

(v) Contains statements of fact that are literally true, but are intentionally presented in a manner reasonably calculated to deceive; and/or

(vi) Conceals or substantially conceals material facts; and

(B) Where a reasonable excuse is not offered or where the offending party has demonstrated a pattern of such conduct.

(6) Bringing a claim, conducting a defense or asserting a position:

(A) That is:

(i) Indisputably without merit;

(ii) Done solely or primarily for the purpose of harassing or maliciously injuring any person; and/or

(iii) Done solely or primarily for the purpose of causing unnecessary delay or a needless increase in the cost of litigation; and

(B) Where a reasonable excuse is not offered or where the offending party has demonstrated a pattern of such conduct.

(7) Presenting a claim or a defense, or raising an issue or argument, that is not warranted under existing law -- unless it can be supported by a non-frivolous argument for an extension, modification or reversal of the existing law or for the establishment of new law -- and where a reasonable excuse is not offered or where the offending party has demonstrated a pattern of such conduct. In

> determining whether a claim, defense, issue or argument is warranted under existing law, or if there is a reasonable excuse for it, consideration shall be given to:
>
> > **(A)** Whether there are reasonable ambiguities or conflicts in the existing statutory, regulatory or case law, taking into consideration the extent to which a litigant has researched the issues and found some support for its theories; and
> > **(B)** Whether the claim, defense, issue or argument is reasonably being asserted to preserve it for reconsideration or appellate review.
> > This subdivision is specifically intended not to have a "chilling effect" on a party's ability to raise and pursue legal arguments that reasonably can be regarded as not settled.
>
> **(8)** Asserting a position that misstates or substantially misstates the law, and where a reasonable excuse is not offered or where the offending party has demonstrated a pattern of such conduct.
>
> (Cal. Code Regs., tit. 8, § 10421(b).)

Based on our review of the record and for the reasons stated by the WCJ in the Opinion on Decision and Report as quoted above, we will not disturb the WCJ's decision. Accordingly, we deny the Petition for Reconsideration.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ PAUL F. KELLY, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 23, 2026

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

MARK NAHVI
ASVAR LAW
LAUGHLIN, FALBO, LEVY & MORESI, LLP

PAG/cm

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date.
KL